

## What To Do if the IRS Audits Your Tax Return...

by MAJ DeEtte Loeffler

You just got back from the field and find a fat envelope from the IRS in your mailbox. When you open it, the letter says you owe the government \$13,000 in tax, interest, and penalties for tax year 2006. You had your 2006 return done at a tax assistance center back at Fort Swampy, U.S.A. What do you do now?

### What is a tax audit and why did I get audited?

A tax audit is simply a review by the IRS to determine if you have correctly completed your tax return and paid the required amount of income tax. There are basically three ways a tax return gets chosen for an audit. First, the information you reported to the IRS does not match that reported by your employer, bank, stock broker, or other source. Second, your tax return may be unusual in some way—for example, you may report a large number of exemptions, or your income may vary dramatically from one year to the next. The last way is a random selection—basically just bad luck.

Once your tax return is selected for an audit, the IRS reviews the return for simple mistakes, like not reporting interest, dividends, or gain from the sale of a rental house. If the mistake is minor, and the amount not excessive, the IRS will simply send you a notice informing you of the mistake and asking you to send in the correct amount (with interest). This is the most common form of tax audit. If the mistake is large, however, or appears to

be intentional, the government will probably include tax penalties as well as interest in the demand letter.

### What do I do now?

First, do not panic. Read the entire letter and see if you can determine why the IRS has re-determined your taxes. Sometimes the IRS has received incorrect information from a broker or a former employer. Another more common problem in the age of identity theft is that someone has used your social security number to get a job, and the IRS is taxing you on that other person's earned income. If you do not understand the letter or the re-assessment, come seek guidance at the legal assistance office.

### If you agree you owe the money:

If you agree with the re-assessment, simply sign the letter and mail the IRS a check, and the matter will be closed. If you do not have enough money to pay the entire debt all at once, you can request the right to make payments under an installment agreement. Generally the IRS will look at your current income and debts and will tell you how much you will need to pay each month. They may garnish your wages to ensure payment.

Where you believe you are unable to pay the debt, and probably will never be able to do so, you can make an "Offer in Compromise," which is simply an offer to pay a portion of the debt either immediately or over time. This is a last resort, and should not be done unless there is no

way you will be able to pay the debt in the next five years. You must complete an IRS Form 656 ("Offer in Compromise") and must pay with the offer either 20% of the total amount (if you are offering a lump sum), or the first installment (if you are offering to pay in installments). The IRS will credit your payment toward the debt but can still reject your offer if they believe you can pay more.

### If you do not agree with the re-assessment:

If you believe the IRS has made a mistake or has bad information, you should gather your documents together and compare them with what the IRS says you earned and owe. For identity theft cases, you can use evidence such as your military orders to show that you could not have earned the income in question. If your broker has misreported gains or losses on the sale of stocks or other investments, you should contact the broker and provide the IRS with evidence of how much you invested to show your "basis" (the cost to you) of that investment.

The legal assistance office can help you to prepare your response. If the IRS agrees with you, they will dismiss the matter. If they disagree, you will have to decide whether to appeal the matter to an IRS Appeals Officer (a specialist who can hear your case), or to pay the tax assessed. If the IRS denies your appeal, you may file a petition in the U.S.

## NEWS FLASH...

**The 21st TSC Office of the Staff Judge Advocate welcomes our new Legal Administrator, CW3 Manny Molina, our new Attorney-Advisor, Lauren Pope (see cover story), and our new Court Reporter, SGT Dawn Davis. We welcome back SSG Everett Wilson and SGT Diane Esparza from their recent deployments. We bid farewell to MAJ Eric Stafford, MAJ Pete Kageliery, CPT Marvin McBurrows, CPT Kevin McCarthy, CPT Desirée Helmick, CPT Jonathan Hoag, SSG Rodney Belt, SSG Derek Tillman, SGT Krista Mette, and SGT James Higgins.**



## What To Do if the IRS Audits Your Tax Return... (continued)

Tax Court challenging the re-assessment, or you can pay the tax assessed.

If you pay the tax but do not agree that the reassessment was correct, you also have the right to file a lawsuit in U.S. District Court to challenge the re-assessment. If you decide to file a petition in the U.S. Tax Court or U.S. District Court, you should hire a lawyer to represent you.

You should be aware that during any case, the amount you owe will keep going up, because interest will continue to accrue (on both the tax owed and on any penalties imposed). The IRS cannot compromise interest, but can abate (waive) penalties imposed.

### How long do I have to respond?

The amount of time you have depends on your situation. The letter will include a date by which you must respond. If you need more time, you can call and ask for an extension. If you are, or have just been, in a combat zone or a "qualified hazardous duty area," you are entitled to an automatic extension of time to respond. Be sure to send all correspondence to the IRS by certified mail so that you can prove when you mailed it (and that you responded). Also, keep a copy of everything you send.

*This is a general overview of the tax controversy process. It is not intended to substitute for talking*

*with a lawyer. You may consult a legal assistance attorney at the Kaiserslautern Legal Services Center by calling DSN 483-8848 or Civilian 0631-411-8848 to schedule an appointment.*

*MAJ Loeffler holds a Masters of Laws degree in Tax. She is a Judge Advocate with the 78th Legal Services Organization, who did her annual training at the Kaiserslautern Legal Services Center. Every year dozens of Reserve Component Judge Advocates and Paralegals do their "AT" at the KLSC, as part of our Overseas Deployment Training (ODT) program. They add a lot to our practice, greatly enhance our ability to solve legal problems for our clientele, and give our preventive law program a shot in the arm...*

### In other news at this hour...

- *The Kaiserslautern Legal Services Center (KLSC) has won The Judge Advocate General's Award for Excellence in Claims Support for FY 2007.*
- *Attorneys from the KLSC participated in the first annual National Healthcare Decisions Day on April 16th by setting up a booth at Landstuhl and generating living wills and health care powers of attorney on the spot.*
- *Attorneys and paralegals from the KLSC conducted mock trials and a multi-media contest in the KMC schools in recognition of the Law Day theme for 2008: "The Rule of Law: Foundation for Communities of Opportunity and Equity."*
- *To date, the tax assistance centers on Kleber Kaserne and at Landstuhl have generated over 2,500 federal and state tax returns, saving taxpayers over \$330,000 in commercial tax preparation fees and generating a whopping \$3,938,046 in tax refunds!*



**MANY HAPPY RETURNS!** — 21st TSC Chief of Client Services Steve Smith (center) bids farewell to SGT Krista Mette and her husband, Aaron. The Mettes were an important part of the KLSC's 2008 tax team that generated a ton of tax returns.

